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IN THE

Supreme Court of the United States

OCTOBER TERM—1969

No. 472

IN THE MATTER OF

LAURENCE SEMEL,

Bankrupt-Petitioner.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

LAURENCE SEMEL,
Petitioner, pro se,
10 Stuyvesant Avenue,
Lyndhurst, New Jersey, 07071.

Adams Press Corp., 11 Commerce Street, Newark, N. J.—Market 3-8611-12

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IN THE

Supreme Court of the United States

OCTOBER TERM—1969

No.

IN THE MATTER OF

LAURENCE SEMEL,

Bankrupt-Petitioner.

To the Honorable, Justices of the Supreme Court of the United States:

The petition of Laurence Semel, the above named petitioner, says that on May 21st, 1969 an opinion was filed in the United States Court of Appeals for the Third Circuit, docket number 17,578, in which the United States Circuit Court of Appeals confirmed an order of the United States District Court for the District of New Jersey denying the petition for review of an order of the referee in bankruptcy. A copy of the opinion delivered upon the rendering of the said judgment brought to be reviewed is appended hereto. The judgment of the United States District Court of Appeals for the Third Circuit was filed on May 21st, 1969 and entered on the same date.

Jurisdiction is conferred on this court by the provision of 28 U. S. C. A. 1254.

The questions presented for review are as follows:—

Was the order of the referee in bankruptcy requiring the bankrupt to prepare a list of his accounts receivable (a list of all pending cases which he may have in his law office at the time of filing the petition for bankruptcy improvidently entered? Should said order have been supported by a verified petition or other documentary evidence?

Should the bankrupt been given notice of the application for the order under appeal? Were the findings of fact and the conclusions of law by the referee erroneous? Were the items mentioned in the order under appeal as "accounts receivable" improperly designated or identified as such? Were the alleged "accounts receivable" an asset of the bankrupt's estate? Does the bankrupt have an obligation to expend his own time and money in order to preserve or in any other manner husband the property of the bankrupt's estate? Is the bankrupt required to list in his schedule alleged assets which are of no value to the bankrupt's estate? Is an attorney at law required to list in his bankruptcy schedule listings of all cases pending in his office at the time of the filing of the petition in bankruptcy?

Facts

A concise statement of the case containing the facts, material to the consideration of the questions presented is as follows:

Petitioner was adjudicated a bankrupt on April 11, 1968. In Schedule B-3 (c) (2a) the petitioner sets forth as an asset "Possible claims for professional services, damages, possible contingent fees on legal matters heretofore handled, costs and disbursements advanced for clients." In Schedule B-3 (c) the printed form requires the following information: "Unliquidated claims of every nature, with their estimated value to be set forth", the bankrupt has

inserted the following: $100.00". In Schedule B-3 (2a) under the heading "Choses in Action" one page is designated as small letter (a). The requirement under that heading is "debt due petitioner on open account." Under this heading the bankrupt has inserted the word "none." There is no explanatory statement at the top of the page as to what is to be inserted in the dollar column, but at the heading at the top of the dollar column are the words "estimated value of debtor's interest." See Collier on Bankruptcy 2814, 2816.

Reasons for Granting the Writ

Petitioner contends that the order made by Referee Tallyn was improvidently entered and should be vacated.

POINT I

The order was not supported by a verified petition or other documentary evidence and the bankrupt was given no notice of the application for said order so that the bankrupt had no opportunity to object to the making and entry of the order.

No petition or other documentary evidence was presented or filed in support of the order under review. Petitioner contends that the order should have been supported by a verified petition by the trustee. No notice was given to the bankrupt of either the application for the order or of the entry of the order itself.

General Order No. 23 reads as follows:

> "In all orders made by a referee, it shall be recited according as the fact may be, that notice was given and the manner thereof; or that the order was made by consent; or that no adverse interest was repre-

sented at the hearing; or that the order was made after hearing adverse interests."

The bankrupt contends that if he had been given notice of the application for the order, he might have been able to put forth the same argument before the Referee as he made on appeal and may have been able to bring to the attention of the Referee the matters and things argued therein to the end that the Referee may have determined that the order should not have been entered. In any event the order should not have been entered without following the law as laid down in General Order No. 23.

In the matter of *Buchwald,* U. S. Dist. Ct., So. Dist of N. Y., Aug. 5, 1955, the court said (133 Fed. Supp. 880):

> "Order 23 of the General Orders in Bankruptcy 11 U.S.C.A. following Sect. 53 requires that in all orders made by a Referee 'it shall be recited according as the fact may be, that notice was given and the manner thereof . . .' No such statement appears in the order of the Referee dated June 13, 1955."

and *In re J & W Doyle Co.,* C.C.A. 3rd Cir., July 8, 1942, 130 Fed. Sec. 340, the court said:

> "General Order in Bankruptcy 37, 11 U.S.C.A. following Sect. 53, as amended Jan. 16, 1937 effective Feb. 13, 1939 provides 'In proceedings under the Act the Rules of Civil Procedure for the District Court of the U. S. * * * shall, insofar as they are not inconsistent with the Act or with these Gen. Orders be followed as nearly may be * * *. Fed. Rules of Civ. Proc. rule 7 (b) 28 U.S.C.A. following Sec. 723 provides 'motions and other papers (1) an application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made

in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirements of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. (2) The rules applicable to captions, signing and other matters of form of pleading apply to all motions and other papers provided for by these rules.'. General Order in Bankruptcy No. 23 11 U.S.C.A. following Sect. 52 provides that 'In all orders made by a referee, it shall be recited according as the fact may be, that notice was given and the manner thereof; or that no adverse interest was represented at the hearing or that the order was made after hearing adverse interests. The appellant (trustee) or his attorney acting for him should have filed a written motion with the referee requesting an extension of time as provided by Sec. 39 sub (c) of the Bankruptcy Act and in accordance with the provisions of Rule 7 (b). If such a motion had been made it would have been the duty of the referee to have made a written order granting the extension in accordance with the terms of Sect. 39 sub (c) of the Bankruptcy Act. Gen. Order 23, if he had concluded in the exercise of his discretion that the motion should be granted. The procedure prescribed by the Fed. Rules of Civil procedure is not an empty formality. It is obvious that if an extension is granted by a referee orally upon an oral motion (unless in the course of hearing reported by a stenographer) adverse parties will have no knowledge of the motion or the extension. If no written motion is filed and the referee does not make a formal order it is apparent that within a very brief time neither the adverse parties nor

the court will be able to tell what took place. The procedure prescribed by the rules must be followed exactly."

POINT II

The finding of facts and the conclusions of law by the Referee were erroneous.

Examination of the testimony of the bankrupt at the first meeting of creditors (4a & 5a) will disclose the following:

Questions by Robert Wasserman, Esq., representing a creditor:

"Q. Does anybody owe you money? A. Yes, lots of people owe me money.

Q. Did you list these people on your schedules? A. I listed an item here covering that point.

Q. Would you tell me how much you listed? A. $100.00.

Q. Do you remember testifying in the fall of last year in the prior proceeding that you had accounts receivable due in the amount of approximately $250,000? A. Yes, I did.

Q. What happened to the $250,000? A. If you can collect it, you can have it, or the trustee.

Q. Did you list them? A. I did not.

Q. Why didn't you list them? A. Because they are miscellaneous claims for prior legal services and monies that I loaned. I have no way of keeping an exact record of those things. I have been a lawyer for 38 years, lots of people owe me money.

Q. Did you write those off as bad debts? A. I do not think so. I ran my business on a cash basis, my law practice, and it is not necessary to write them off as bad debts.

Q. Would you have records to show who owes these monies? A. If you want to go over 38 years of files, you can probably find it.

Q. All I want to know is if these are legitimate accounts receivable? A. Well, you will have to decide that for yourself.

Q. Well, do you think they are legitimate accounts receivable? A. Well, monies that are owed to lawyers for legal services or cash loans are questionable, as you very well know.

Q. You mean to tell me that you had $250,00 of accounts receivable and you didn't try to collect them before filing bankruptcy? A. I always try to collect from people.

Q. Did you make an effort to collect the fees? A. I always make an effort to collect fees that are due me as a lawyer."

It is the contention of the bankrupt that the Referee was in error in ruling that this testimony was sufficient to establish that the bankrupt had "accounts receivable" in the amount of approximately $250,000. At best the bankrupt had money due and owing to him going back for a period of 38 years. The bankrupt contends that this type of indebtedness cannot be considered "administerable assets". In the case of *In re Coleman* (C. C. A. 2nd Cir.) 87 Fed. 2nd 753 decided Feb. 1937, the court said:

"Section 70 of the Bankruptcy Act enumerates classes of property which pass to the trustee, but no general definition of the term is attempted. The

> significant factor is that they have a *calculable* value * * * (emphasis mine)."

There would be no point in listing the names and addresses of persons with whom the bankrupt has done business over a period of almost forty years where such debts due to the bankrupt from such persons have little or no value.

The bankrupt was not given the opportunity of cross-examination during the examination for the purpose of eliciting the whole truth regarding the subjects of the examination or given an opportunity to correct or to explain testimony given by him on interrogation, nor was the bankrupt given an opportunity to offer evidence in said examination for the purpose of explaining or clarifying any testimony given by him.

In 19 Am. Jur. 2nd 466, Sec. 612, the text is quoted as follows:

> "The bankrupt has the right to counsel at his examination or at any other examination. It is, moreover, the right of the bankrupt to be cross-examined by his own counsel for the purpose of eliciting the whole truth regarding the subjects of the examination through correcting and explaining his testimony given in answers to interrogations by the other party." *Good* v. *Kane,* C. C. A., 8th Circ. 211 Fed. 956.

The bankrupt contends that if the Referee had withheld the making of the order until the completion of the examination under Sect. 21A, and if the bankrupt had been given the opportunity, he would have been able to bring out the entire truth about the alleged "accounts receivable." He would have been able to show that there

was no representation by him at any time that there were "accounts receivable" due to him in the sum of $250,000. He would have been able to show that in practicing law and doing other various types of business over a period of almost 40 years, many people owed him money, but such indebtedness is now of nebulous value and certainly not an administerable asset. It would require extensive work, effort and expense on the part of the trustee and the bankrupt to catalogue such indebtedness, located the debtors and ascertain whether such accounts are collectible. If the examination had been completed, the bankrupt would have been able to show that in addition to money due to him for fees, many people had borrowed money from him and many people had made purchases from him or rented properties owned by him and had not paid him. If any of these monies had been collectible the bankrupt would have tried to collect them many times in the past and the fact that he was unable to collect them is evidence that they are of no value. There is nothing in this case to indicate that the bankrupt is withholding assets or information, or has any hope of ever being able to collect any of these old accounts which are due to him. There is little or no hope of recovering any of the alleged money which is due to the bankrupt.

POINT III

The items mentioned in the order as "accounts receivable" are improperly designated or identified as such. The testimony mentioned in said order is in fact "money due to the bankrupt" and a listing of said money due and owing to the bankrupt as "accounts receivable" is erroneous and misleading.

The bankrupt repeats herein that the argument set forth in the above-mentioned points as to the alleged "accounts receivable."

The bankrupt contends that when he was asked a question by the Referee at the first meeting as to whether he had truthfully set forth in the schedule his assets, the bankrupt contends that he was telling the truth. Mr. Wasserman questioned him as to whether anybody owed him any money. He answered truthfully in saying, "Lots of people owe me money." When he was asked, "whether he listed these people in the schedule," he answered, "I listed an item covering that point," in which the bankrupt did list under Schedule B-3 "possible claims for professional services rendered, damages, possible contingent fees on legal matters heretofore handled, costs and disbursements advanced for client." The bankrupt repeats that these are not "accounts receivable" and that the answers to his examination did not in any way intend to indicate that they are "accounts receivable" in the true sense of the word. He merely answered the question "Does anybody owe you money?" and the answer given by him was truthful.

Although the bankrupt is a member of the Bar of many years standing, consideration should be given to the fact that going through an examination in bankruptcy can be a trying experience for anyone.

> "A timid, thoughtless, or ignorant debtor may not be led on by quick, trained examiner to make mistaken admissions and to tell half-truths and then denied the opportunity to correct or explain his testimony." *Good* v. *Kane, supra.*

POINT IV

The alleged "accounts receivable" are not an asset of the bankrupt's estate because they are due from persons and corporations who have died or disappeared or are out of business. The cost of recovering any such monies would be far beyond their value so that they would add nothing to the bankrupt's estate.

The fact is (and this would have been revealed during the examination of the bankrupt if the examination had been completed) that the alleged accounts receivable cannot be considered as an asset of the bankrupt's estate since they are for the most part incapable or not susceptible of being catalogued and are practically all uncollectible. They are due and owing from numerous persons or corporations, many of whom have died or are out of business, many of whom are in bankruptcy, many of whom have disappeared or have no means or assets with which to pay them. The bankrupt is certain that a further examination into this situation would satisfy any trustee that any such alleged monies due and owing to the bankrupt are not worth even the time and trouble to make an application to the court to abandon them.

In the case of *In Re Harper,* 175 Fed. 412 at p. 428 (D. C. N. Y. 1910) the court said:

> "Trustees in bankruptcy are not justified in pushing the estate of bankrupt into doubtful or unproductive litigations. * * * If success is doubtful in the case of a claim alleged to be due the estate and the fruits of success will not pay the expense of cultivating the field, it is their duty * * * to abandon the claim. * * * Referees in bankruptcy should and must see to it that estates are administered in accordance with this rule. * * *"

POINT V

The bankrupt is not required by law to spend his own time and money in order to care for, preserve or in any other manner gather the property of the bankrupt's estate. The extent of the bankrupt's obligation is to avoid acts in derogation of the estate.

In the case of *Shumake* v. *Basis Metals,* 129 S.W. 2d 36 (St. Louis Ct. of Appeals 1930) the court held that:

> "the fiduciary status of the bankrupt does not place upon him the obligation to call for and preserve the property at his own expense. The extent of his obligation is to avoid acts in derogation of the estate. The duty of protecting and conserving the property fails primarily upon the court of bankruptcy."

It should not be contemplated by the Bankrupty Act that severe hardships be placed upon the bankrupt in order to accumulate and compile a list of accounts receivable going back for a long period of time and, particularly, when such a list would avail nothing to the bankrupt's estate.

In this case the bankrupt would be required to spend a great deal of his own time and money in order to gather together information as to persons who may possibly owe him money.

POINT VI

The bankrupt is not required to list in his schedules of assets any rights or credits or other alleged assets which are of no value to the bankrupt's estate.

The bankrupt contends that it would be physically impossible to comply with the letter and spirit of the order as above stated. If examination had been completed, the bankrupt would have been able to prove beyond a doubt that the money due to him, to all intents and purposes, is uncollectible and the testimony would further have proven that the bankrupt is presently penniless and under economic hardship, which would point to the fact that if these items were collectible the bankrupt would have taken some action toward collecting them himself prior to the filing of the petition in bankruptcy. The alleged monies which are due to the bankrupt are not such as would warrant any effort on the part of the bankrupt to set up and keep extensive records concerning them and even though accurate and careful records were kept, the bankrupt contends that such monies are nevertheless uncollectible and therefore valueless.

In the case of *American Trust Co.* v. *Walls,* 126 Fed. 464, C.C.A. 3rd Cir. at p. 466, the court said:

> "In the absence of fraud or concealment, the Bankruptcy Court can only order the delivery of property to the trustee which the bankrupt is physically able to deliver up."

POINT VII

The bankrupt, has at all times herein, offered to hand over to the trustee all of his books, records, documents, files or any other items or papers in his possession in order to give the trustee an opportunity to examine the same to ascertain whether or not there are any sums of money due the bankrupt which have any value or are collectible.

The bankrupt has some record and files pertaining to his business affairs and has always made them available to the trustee or his attorney.

In 9 Am. Jur. 2nd 467, Sec. 613, the text is quoted as follows:

> "An order which requires the production of books and documents without a description sufficient to enable the bankrupt to know with certainty the specific books and documents that he is expected to produce is unreasonable and subject to condemnation equally with an order which requires a production of all books and papers of a witness." *Rawlins* v. *Hall-Epps Clothing Co.*, 217 Fed. 884, C.C.A. 5th Cir.

POINT VIII

Partially earned fees on cases pending in the bankrupt's office are not assets of his bankrupt estate.

In the case of *In re Coleman, supra,* the court said:

> "At the time of filing the petition here, all that the bankrupt had was a lien upon the cause of action * * * and a contract providing for a contin-

> gent fee. Services performed were then without property value within Section 70 and might very well go uncompensated. Nothing had been earned under the bankrupt's contract. The statutory liens supplies a remedy with attendant rights, not property or a property right as required by the Bankruptcy Act."

This case concerned a member of the Bar of the State of New York. The statutory lien allowed to New York lawyers is similar to that of New Jersey lawyers. The bankrupt contends, as a practicing lawyer, that nothing is earned on cases being handled by him until the case is complete and his fees are not property but merely liens and rights or remedies in the cases now pending in his office. As such, they are not required to be scheduled as an asset in bankruptcy.

POINT IX

The bankrupt contends that cases pending in his law office involve matters and things which are privileged communications between the bankrupt and his clients.

The bankrupty contends that all of the matters and things in his office in his law office are privileged communications between himself and his clients. If he were obliged to disclose all of the cases, matters, things or names of clients in matters presently pending in his office, he may be violating his clients' rights to privacy. He should therefore not be required to disclose to the trustees or anyone, the names or other information pertaining to such cases.

In 5 Am. Jur. 286, Sec. 46, the text is quoted as follows:

> "He [the attorney] is not allowed to divulge confidential communications, information and secrets imparted to him by the client or acquired during their professional relation, unless he is authorized to do so by the client himself."

CONCLUSION

In the case of *Benson,* decided in 1952 (D. C. Penn.) 102 Fed. Supp. 166, the court said:

> "The Federal District Courts in bankruptcy proceedings must pass on referees' findings of fact and adopt or modify them, or, if necessary, make findings of his own."

The petitioner respectfully contends that the order under review should be vacated and that he should not be required to comply with the same.

Respectfully submitted,

LAURENCE SEMEL,
Bankrupt-Petitioner, pro se.

APPENDIX A

Opinion of U. S. Court of Appeals for the Third Circuit

IN THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17578

IN THE MATTER
of
LAURENCE SEMEL, *Bankrupt.*
LAURENCE SEMEL, *Appellant.*

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Argued April 10, 1969

Before: HASTIE, *Chief Judge,* GANEY and VAN DUSEN, *Circuit Judges.*

OPINION OF THE COURT

(Filed—May 21, 1969)

By GANEY, *Circuit Judge.*

This case involves a bankrupt's appeal from an order of the District Court denying his petition for review of an

order of the referee. In the statement of all the property of the bankrupt accompanying his voluntary petition in bankruptcy, Laurence Semel, Esquire, licensed to practice law in New Jersey, stated that no debts were due him on open account, but that an amount estimated at $100 is due him for "Possible claims for professional services rendered, damages, possible contingent fees on legal matters heretofore handled, costs and disbursements advanced for clients."

At the first meeting of creditors,[1] held twenty days after the petition was filed, the bankrupt, who acted as his own counsel, testified that many people owed him money, probably in excess of a quarter of a million dollars. When asked why he did not list that amount in the schedules, he replied that the sum represented miscellaneous claims for prior legal services and monies that he loaned to a number of people over the past thirty-eight years. And in response to the question why he did not list the names of these people in his schedules, he stated that the $100 item covered those amounts. At a Section 21a hearing (11 U.S.C.A. § 44a), held twenty-eight days later, the bankrupt gave as his reason for writing "None" under the heading "Debts due petitioner on open account", his belief that the amounts, estimated by him at more than a quarter of a million dollars, owed him had no value to the bankrupt's estate. He also said that he did not have a list of the names, but that he had files going back for many years. When the attorney for the trustee advised him that he was going to ask him to make a list of the people who

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[1] Pursuant to § 7a(10) of the Bankrupty Act, 11 U.S.C.A. § 25a(10).

owed him that money, the bankrupt said that he would refuse because it was not his duty to do so. The referee then orally directed him to furnish a list.

The following day the referee issued a written order. The order, after stating that the bankrupt had testified concerning "accounts receivable", directed the bankrupt to "prepare a list of accounts which total, in accordance with the bankrupt's testimony, $250,000.00, said list to include name, address, amount and how said debt arose", to "prepare a list of all pending cases which he may have in his law practice and set forth the fees which were due from said cases at the time of the petition in bankruptcy", and that he furnish the lists within thirty days from the making of the order.

The bankrupt's first complaint that the referee's order is unlawful because he was not given notice of the application for the order is without merit. The informing him by the attorney for the trustee that he was going to request him to make a list was sufficient notice to him of the written order which followed. He is not harmed by the fact that it omitted to recite that he was given notice of the application for the order as required by General Order 23.

He claims that he is not required to set forth in the schedules the debts owed to him for two reasons: (1) the cost of the effort to recover them will exceed their worth, and (2) the trustee's contact of the people, some of whom were or are clients of his, as a result of his revealing their names and addresses, will harm his reputation as a lawyer, and that the practice of law is the only asset he has left.

The general contents of a petition in bankruptcy should comply with the provisions of the Bankruptcy Act, General Orders, and official forms of the Supreme Court. Col-

lectively, they require the petitioner to make the fullest disclosure of his assets as well as his liabilities. *In re Britling,* 133 Fed. 146 (7 Cir. 1904); 1 Collier on Bankruptcy (14th Ed.) ¶¶7.08, 711. A petitioner may not seek the benefits of the Bankruptcy Act and at the same time be allowed to refuse to furnish a complete and accurate schedule of his assets. *In re Thomas,* 204 F. 2d 788, 794 (C. A. 8, 1953); *Hudson* v. *Wylie,* 242 F. 2d 435, 452 (C. A. 9, 1957). And it is not unusual to require a report of certain items even though they cannot be used by the trustee. The requirement of full reporting in good faith of all assets of the bankrupt is not the equivalent, as the bankrupt maintains, of shifting from the trustee to him the duty to collect, care for and preserve the property of the bankrupt's estate. The responsibility for determining whether "property interests" or "choses in action" are of value to the bankrupt's estate is placed upon the trustee and not the petitioner. *In re Hannan,* 127 F. 2d 894, 897 (7 Cir. 1942).

Whether his reputation will be harmed is problematic. But even if it will be, aside from the fact that this is a consideration which the bankrupt should have weighed in the balance before he decided to file his petition, embarrassment or loss of reputation from publicity of the bankruptcy proceedings will not excuse full disclosure.

There is nothing in the record to support his contention that he was not given an opportunity during or after his examination at the hearings to explain or clarify, in lieu of cross-examination, any testimony given by him about the quarter-of-a-million-dollar item.

The bankrupt also urges that he is not required to list cases pending in his office because information about such

matters involves privileged communications between him and his clients. All fees and commissions earned and accrued prior to bankruptcy, or relating to services already performed, even though they may be paid thereafter, are assets of the bankrupt estate. *Parkford* v. *C.I.R.,* 133 F. 2d 249 (9 Cir. 1943), cert. denied 319 U. S. 741; *In re Austin,* 42 F. Supp. 889 (E. D. N. Y. 1942); 4A Collier on Bankruptcy (14 Ed.) ¶70.34. In the absence of unusual circumstances, the fact of a retainer, the identity of the client, the conditions of employment and the amount of the fee do not come within the privilege of the attorney-client relationship. *Mauch v. C.I.R.,* 113 F. 2d 555 (3 Cir. 1940); *United States* v. *Pope,* 114 F. 2d 778, 782-83 (2 Cir. 1944); *Colton* v. *United States,* 306 F. 2d 633 (C. C. 2, 1962); *Wirth* v. *Fowler,* 372 F. 2d 315, 332-333 (C. A. 5, 1966); *In re Wasserman,* 198 F. Supp. 564 (D. C. D. C. 1961). The determination that the facts relating to a particular retainer comes within the privilege is to be made by the referee in the first instance. Presently, there is nothing in the record upon which a determination can be made. The mere assertion of an attorney-client relationship is not enough. It may turn out that in some of cases the bankrupt has earned nothing at the time of the filing of his petition. See for example, *In re Coleman,* 87 F. 2d 753 (2 Cir. 1937). But here again the responsibility for that determination is upon the trustee. The bankrupt must supply the information even though it may be of no value to the bankrupt's estate.

We have considered the other points raised by the bankrupt and do not think they merit discussion here.

The district Court had jurisdiction over the petition for review. It was timely filed and there were no procedural irregularities. Therefore, we interpret the Court's dis-

missal of the petition as confirming the order of the referee.[2] As interpreted, the order will be affirmed.

A True Copy:
Teste:

Clerk of the United States Court of Appeals for the Third Circuit.

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[2] The courts of bankruptcy are invested with authority to "Consider records, findings, and orders certified to the judges by referees, and confirm, modify, or reverse such findings and orders, or return such records with instruetions for further proceedings;". See § 2a(10) of the Bankruptcy Act, 11 U.S.C.A. § 11a(10). Also see General Order 47.